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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,741	04/03/2001	Arthur W. Zikorus	VNUS-57380	4515

7590 01/10/2007

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EXAMINER	
ROY, BAISAKHI	
ART UNIT	PAPER NUMBER
3737	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/825,741	ZIKORUS ET AL.	
	Examiner	Art Unit	
	Baisakhi Roy	3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 December 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-53 and 70-72* is/are pending in the application.

4a) Of the above claim(s) *23-34 and 42-49* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22, 35-41, 50-53, and 70-72* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, filed 12/11/06, with respect to the rejection(s) of claim(s) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-11, 18-22, 35-38, 40, 41, and 70-72 are rejected under 35 U.S.C. 102(e) as being anticipated by Slater et al. (2005/0107738). Slater et al. disclose a method of positioning a catheter proximate to a junction in a hollow anatomical structure such as the sapheno-femoral junction of a patient by introducing a catheter into the hollow anatomical structure [0174-0178] and identifying the junction based on feedback from the catheter with the use of light emitted from a fiber optic device and an attribute of the light changes upon reaching the junction [0176]. The method further involves applying energy to the hollow structure at the treatment site via

an energy application device at the working end of the catheter so as to lead to a reduced diameter for the hollow structure or occlude the region of interest [0170-0174]. The method also involves marking externally the desired location [0179-0185]. The reference also teaches the step of introducing the catheter over a guide wire with a tip located at the distal end of the guide wire or located at the working end of the catheter wherein the guide wire traverses a lumen in the catheter and the tip is adapatable to engage the junction of the anatomical structure while the catheter travels over the guide wire to the junction where it "wedges" against the junction [0161-0166, 0178]. The reference teaches that the identifying step may include an ultrasound signal sensed by the catheter [0173, 0179, 0186, 0276]. Slater et al. also teach that the identifying could also include a magnetic field sensed by the catheter [0182-0183]. The reference is directed to the application of energy that heats the structure leading to reduced diameter of the structure resulting in occlusion of the hollow anatomical structure [0021-0024].

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 16, 17, and 50-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slater et al. in view of Leschinsky et al. (5728122). Slater et al.

disclose a method of positioning a catheter proximate to a junction in a hollow anatomical structure such as the sapheno-femoral junction of a patient by introducing a catheter into the hollow anatomical structure [0174-0178] and identifying the junction based on feedback from the catheter with the use of light emitted from a fiber optic device and an attribute of the light changes upon reaching the junction [0176]. The method further involves applying energy to the hollow structure at the treatment site via an energy application device at the working end of the catheter so as to lead to a reduced diameter for the hollow structure or occlude the region of interest [0170-0174]. The method also involves marking externally the desired location [0179-0185]. The reference also teaches the step of introducing the catheter over a guide wire with a tip located at the distal end of the guide wire or located at the working end of the catheter wherein the guide wire traverses a lumen in the catheter and the tip is adapatable to engage the junction of the anatomical structure while the catheter travels over the guide wire to the junction where it "wedges" against the junction [0161-0166, 0178]. The reference teaches that the identifying step may include an ultrasound signal sensed by the catheter [0173, 0179, 0186, 0276]. Slater et al. also teach that the identifying could also include a magnetic field sensed by the catheter [0182-0183].

Slater et al. teach that said guide wire "wedges" against the junction [0178] but do not explicitly teach the guide wire to have a hook shaped tip at the distal end. In the same field of endeavor, Leschinsky et al. disclose a guide wire with a hook shaped tip located at the working end of the catheter (col. 13 lines 43-47). It would have therefore been obvious to one of ordinary skill in the art to use the teaching by Leschinsky et al. to

modify the teaching by Salter et al. for the purpose of enabling a more efficient anchoring mechanism to attach to the structure of interest.

6. Claims 12-15 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slater et al. in view of Makower et al. (6190353). Slater et al. do not teach the use of a radio frequency signal sensed by the catheter. In the same field of endeavor Makower et al. disclose a method and apparatus for minimizing arterial obstructions including catheter devices and systems to modify and/or close vascular passageways where a radio frequency signal is used as an identifying method and the signal is sensed by the catheter (col. 24 lines 60-67, col. 25 lines 1-26). It would have therefore been obvious to one of ordinary skill in the art to use the teaching by Makower et al. to modify the teaching by Slater et al. for the purpose of enhancing visualization of the anatomical structure.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baisakhi Roy whose telephone number is 571-272-7139. The examiner can normally be reached on M-F (7:30 a.m. - 4p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BR

BR

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